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City Council Regular Meeting Minutes

**Monday, March 18, 2019
7:00 p.m., Community Auditorium**

***Minutes are unofficial until approved by Council.
Council approved minutes as presented April 22, 2019.***

1. CALLED TO ORDER AND ROLL CALL:

Mayor Peter Truax called the regular City Council meeting to order at 7:04 p.m. and led the Pledge of Allegiance.

ROLL CALL: COUNCIL PRESENT: Thomas Johnston, Council President; Timothy Rippe; Ronald Thompson; Elena Uhing; Adolph “Val” Valfre; Malynda Wenzl; and Mayor Peter Truax.

STAFF PRESENT: Jesse VanderZanden, City Manager; Chris Crean, City Attorney; Paul Downey, Administrative Services Director; Keith Hormann, Light and Power Director; Bryan Pohl, Community Development Director; James Reitz, Senior Planner; Dan Riordan, Senior Planner; and Bev Maughan, Executive Assistant to City Manager. **STAFF ABSENT:** Anna Ruggles, City Recorder, excused.

2. CITIZEN COMMUNICATIONS: None.

3. CONSENT AGENDA:

Items under the Consent Agenda are considered routine and are adopted with a single motion, without separate discussion. Council members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the remaining Consent Agenda item(s).

- A. Approve City Council Work Session (Small Cell Wireless) Meeting Minutes of February 25, 2019.
- B. Approve City Council Work Session (Council Goals Refinement) Meeting Minutes of February 25, 2019.
- C. Approve City Council Regular Meeting Minutes of February 25, 2019.
- D. Accept Historic Landmarks Board Meeting Minutes of January 22, 2019.
- E. Accept Parks and Recreation Commission Meeting Minutes of January 16, 2019.
- F. Accept Planning Commission Meeting Minutes of January 22 and February 4, 2019.
- G. Accept Public Arts Commission Meeting Minutes of January 10, 2019.
- H. Community Development Monthly Building Activity Report for February 2019
- I. Accept Resignation on Parks and Recreation Commission (Delaney Sharp,

Student Advisor, Term Expiring December 31, 2019).

J. Accept Resignation on Public Safety Advisory Commission (Ryan Duve, Term Expiring December 31, 2020).

K. **Endorse Liquor License Renewal Applications for Year 2019:**

- 1) Diversity Café, 2104 Main Street, Full On-Premises Sales
- 2) Half Moon Sports Bar, 1927 Main Street, Full On-Premises Sales
- 3) Kaiser Brewing Company, 1607 Hawthorne Street, Public House Brewery
- 4) La Estrella Tacos, 2432-2434 19th Avenue, Limited On-Premises Sales
- 5) McMenamins Grand Lodge, 3505 Pacific Avenue, Full On-Premises Sales

MOTION: Councilor Wenzl moved, seconded by Councilor Valfre, to approve the Consent Agenda as presented. MOTION CARRIED 7-0 by voice vote.

4. **ADDITIONS/DELETIONS:**

VanderZanden postponed Agenda Items 10 and 11 (refer below) due to Council meeting adjourning too late. These item will be rescheduled to the next Council meeting.

5. **PRESENTATIONS:**

5. A. **Annual Financial Audit for City and Urban Renewal Agency (URA) for Year Ending June 30, 2018**

Downey introduced Brad Bingenheimer, City Auditor, who outlined the audit process and Financial Audit Report for period ending June 30, 2018, noting he is pleased to report no difficulties were encountered while performing and completing the City's audit. Bingenheimer gave an overview of the Financial Statements and highlighted the City's financial activities and financial position as noted below:

- Total assets of the City exceeded its liabilities by \$115.7 million at June 30, 2018. Of this amount, \$15.1 million is reported as unrestricted net position which may be used to meet the City's obligations.
- During the year, the City's net position increased by \$3.62 million in governmental activities and \$4.44 million in business-type activities for a total increase of \$8.06 million.
- The General Fund reported an ending fund balance of \$7,673,758 which is an increase of \$748,345 from the prior fiscal year as reimbursement from other governments and interest revenue were higher than expected, and operating departments spent less than budgeted appropriations. Other increases in governmental fund balances was primarily due to system development fees collected for parks and traffic impact. The overall increase in proprietary net position is due to revenue from system development charges in the Water and Sewer Funds and revenue from user rates being held for future capital purchases. Ending fund balance at June 30, 2018, was 42 percent of the General Fund expenditures for the fiscal year ending June 30, 2018.
- The City has had no change in its credit rating of Aa3 from Moody's.

In addition, Bingenheimer reviewed economic factors in preparing the City's General Fund budget for 2018-19 fiscal year. Next, Bingenheimer outlined the Urban Renewal Agency (URA) audit process and Financial Audit Report for period ending June 30, 2018, noting he is pleased to report no difficulties were encountered while performing and completing the URA's audit. Bingenheimer gave an overview of the Financial Statements and highlighted the URA's financial activities and financial position as noted below:

- Total Assets of the URA were \$617,980 at June 30, 2018, which is the end of the URA's third fiscal year. Net Position is negative (\$1,452,081) which is essentially the difference between the long-term debt to the City and the acquisition cost of the remaining land owned by the URA and cash and investments held by the URA.
- Overall, expenditures were \$66,994 and overall revenue was \$167,286. The primary expenditure for 2017-18 was \$41,252 in interest expense paid to the City for debt owed to the City.
- As of June 30, 2018, the URA had long-term liabilities of \$2,062,561 (outstanding debt) which consists of a loan from the City for the URA to provide assistance to a private developer for a mixed-use development project that has now been completed (Jesse Quinn). The note is interest only for the first three years with the principal repayment to begin in Fiscal Year 2020 with fully repaid by the end of Fiscal Year 2026. Major asset is the remaining land held for sale.

The URA plans on starting to market this property in the coming fiscal year.

In addition, Bingenheimer reviewed economic factors, noting as the URA completes projects, it is actually investing in itself; as the value of property increases in the district, the tax increment revenues increase. None of those projects completed during Fiscal Year 2017-18 received any assistance from the URA.

6. PUBLIC HEARING AND ORDER NO. 2019-02 WITHDRAWING FROM THE CITY LIMITS AND CLEAN WATER SERVICES BOUNDARY TERRITORY LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 35 AND SOUTHWEST ONE-QUARTER OF SECTION 36, TOWNSHIP 1 NORTH, RANGE 4 WEST WILLAMETTE MERIDIAN (LOCATED NEAR 2200 STRASBURG DRIVE); FILE NO. 311-18-000033-PLNG

Staff Report:

Riordan and Pohl presented the above-proposed order, noting the proposed order is withdrawing from the city limits and Clean Water Services boundary a certain tract of land located in the Southeast one-quarter of Section 35 and Southwest one-quarter of Section 36, Township 1 North, range 4 West Willamette Meridian, located near 2200 Strasburg Drive; File No. 311-000033-PLNG. Riordan reported on January 14, 2019, Council adopted a resolution declaring the city's intent to withdraw the territory and on February 11, 2019, Council adopted Order No. 2019-01 setting forth the boundaries of the subject territory proposed for withdrawal as required by ORS. In conclusion of the above-noted staff report, Riordan and Pohl advised staff is recommending Council

consider withdrawing the territory by order as outlined in Exhibit A, noting no electors reside in the subject territory and no written requests for an election have been filed with the City. Riordan reported concurrent with city's withdrawal, the Washington County Board of Directors will formally annex the territory into the Forest Grove Rural Fire Protection District, noting an effective date of March 31st also ensures the decision becomes effective during the 2019 tax year.

Before proceeding with Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Order No. 2019-02.

VanderZanden read Order No. 2019-02 by title.

MOTION: Councilor Wenzl moved, seconded by Councilor Valfre, to approve Order No. 2019-02 Withdrawing from the City Limits and Clean Water Services Boundary Territory located in the Southeast One-Quarter of Section 35 and Southwest One-Quarter of Section 36, Township 1 North, Range 4 West Willamette Meridian (Located Near 2200 Strasburg Drive); File No. 311-18-000033-PLNG.

Public Hearing Opened:

Mayor Truax opened the Public Hearing and explained hearing procedures.

Declaration of Ex-parte Contacts, Conflicts of Interest, or Abstentions:

None declared.

Challenges from Parties:

None declared.

Written Testimony Received:

No written testimony was received prior to the deadline of March 18, 2019, 7:00 p.m.

Proponents:

No one testified and no written comments were received.

Opponents:

No one testified and no written comments were received.

Others:

No one testified and no written comments were received.

Public Hearing Closed:

Mayor Truax closed the Public Hearing.

Council Discussion:

Hearing no concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Johnston, Rippe, Thompson, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

7. **PUBLIC HEARING AND ORDER NO. 2019-03 ADOPTING COUNCIL FINDINGS; DENYING APPEAL FILED BY APPELLANT AND AFFIRMING THE COMMUNITY DEVELOPMENT DEPARTMENT'S DENIAL OF SITE PLAN APPROVAL FOR A 16-UNIT MANUFACTURED DWELLING PARK EXPANSION AT 4015 PACIFIC AVENUE; WASHINGTON COUNTY TAX LOT 1N332DD01400; FILE NO. 311-18-000036-PLNG**

Public Hearing Opened:

Mayor Truax opened the Public Hearing and read the hearing procedures.

Declaration of Ex-parte Contacts, Conflicts of Interest, or Abstentions:

Uhing disclosed being an affordable housing advocate. Uhing also disclosed she had an ex-parte contact from a resident, which she referred to the City Manager's Office, noting her decision would be based on the Code and laws.

Valfre disclosed being an affordable housing advocate, noting his decision would be based on the evidence provided.

Thompson disclosed being an affordable housing advocate, noting his decision would be based on the land use laws.

Wenzl disclosed, as a teacher, she has students who reside within the Rose Grove community, noting this would not affect her decision.

Challenges from Parties:

None declared.

Staff Report:

Reitz and Pohl presented the above-proposed order and findings for Council consideration, noting the proposed order is adopting Council Findings (Exhibit A); denying an appeal filed by Appellant and affirming the Community Development Department's denial of site plan approval for a 16-unit manufactured dwelling park expansion at 4015 Pacific Avenue; Washington County Tax Lot 1N33DD01400; Appellant: 3J Consulting, Rose Grove Mobile Home Park LTD; File No. 311-000036-PLNG. The site is located south of the existing Rose Grove site, east of the Best Western site and contains 0.98 undeveloped acres. The following attachments were referenced in the staff report: 1) PowerPoint Presentation; 2) Quasi-Judicial Hearing Script; 3) Proposed Order; 4) Applicant's Appeal Materials; 5) Planning Commission

Decision No. 2019-01; and 6) Planning Commission Staff Report and Attachments, including Applicant's Appeal Materials; Community Development Department Letter of Denial; Application for Site Plan Approval; and Correspondence. Reitz and Pohl reported the Planning Commission deadlocked at 3-3, which affirmed the Community Development Department's decision to deny the application. Reitz and Pohl presented a PowerPoint Presentation overview, noting the site is located in Community Commercial (CC) zoning district. Staff concluded the Reasons for Denial are as follows:

- Manufactured dwelling parks are not listed as a permitted use in the Community Commercial (CC) zoning district within the Development Code (DC).
- The DC does not list Manufactured Dwelling Parks (MDP) as either a permitted or conditional use in the CC zoning district.
- MDPs are listed as conditional uses in the R-5, R-7, R-10, RML and RMH zoning districts. MDPs must also comply with the provisions of DC §10.5.300 et. seq. Manufactured Dwelling Parks.
- The description of housing types under DC §10.12.110 Definitions is not a standard or an approval criterion.
- An example is just one that is representative of all of a group or type, and the examples listed in §10.12.110 are generally representative of Household Living types; and
- The DC stipulates the allowable locations for manufactured dwelling parks, and the CC zoning district is not listed as one where manufactured dwelling parks are allowed; and
- DC §10.1.120(D) requires that *"Where two or more requirements of this Code apply, the most restrictive requirement shall govern."* In this context, because Manufactured Dwelling Park is specifically listed as a conditional use in most of the residential zones, and is not listed at all in the CC zoning district, the more restrictive requirement prohibits approving an application for a manufactured dwelling park in any zoning district that was not R-10, R-7, R-5, RML or RMH.
- Household Living is permitted in the Community Commercial (CC) zoning district. This does not mean that all housing types listed under household living are permitted in the CC district.
- As shown on Slide #11, the Community Commercial zone lacks a 'Housing Types' subcategory. This does not mean that a manufactured dwelling park is permitted in the CC district.
- Article 5 of the Development Code provides standards for Manufactured Dwelling Parks: "To accommodate manufactured dwelling parks in the R-10, R-7, R-5, RML and RMH zoning districts subject to conditional use review and site development plan approval."
- Manufactured dwelling parks are not contemplated anywhere else in the code.
- Because a manufactured home park is not listed in §10.5.300, an application for a manufactured home park in the CC zoning district would have to undergo Conditional Use permit review, but only Site Development Review.

In addition, staff referenced Table 3-10, Commercial and Mixed Use Zones Use Table; Table 3-2, Residential Zones Use Table; Table 3-12, Town Center Zones Use Table; and Table 3-14, Industrial Zones Use Table. Staff also concluded that:

- While household living is permitted in manufactured dwellings, the definition does not specify manufactured dwelling parks. The proposal that is the subject of this appeal meets the definition of a manufactured dwelling park.
- If, as the applicant claims, Household Living permits manufactured dwelling parks, then it would have to be interpreted to allow manufactured dwelling parks in every zoning district where Household Living is allowed, including Town Center Transition and Industrial. This is not a reasonable interpretation of the DC.
- Article 5 of the Development Code provides specific guidelines for the development of manufactured dwelling parks that delineate zoning districts in which they may be located (all of which require conditional use review).

Therefore, it is staff's conclusion that the denial was justified and should be upheld by the City Council. In conclusion of the above-noted staff report, Crean and staff recapped the following City Council actions for consideration:

- Affirm the Community Development Department's decision to deny the application; or
- Reverse the Community Development Department's decision and approve the application as submitted. If this option is selected, no further review of the application for compliance with Development Code standards would be performed, nor would the Fire Department's issues be addressed (road access). The Building Code and ODOT requirements would still apply because they are State codes; or
- Reverse the Community Development Department's decision and approve the application with the condition that the applicant enters into a development agreement to revise the site plan to comply with the review comments listed in the staff report as well as all other Development Code Article 8 standards and specifications.

Questions of Staff:

In response to Uhing's inquiries pertaining definitions, target density and if the current MHP is located on residential land and was "grandfathered-in, Reitz advised it is primarily located in Community Commercial zone and within General Industrial along Yew Street, noting the zoning has been the same since at least 1980, prior to that he could not attest. Reitz also advised a MH dwelling unit and MH park differ in meaning. Reitz affirmed the site plan meets target density, which is 16.22 units per net acre in CC zone. Attorney Crean advised the term "grandfathered-in" is commonly known as a non-conforming use and cannot be applied to an expansion.

In response to Wenzl's inquiry if the application would be considered as a new MH park or an expansion, Pohl advised the application is for an expansion on an undeveloped lot.

In response to Council President Johnston's inquiry pertaining to ownership of the 0.98 acre site, Reitz advised the lot has been owned by the same owner since at least 1980, prior to that he could not attest. In response to Council President Johnston's inquiry pertaining to a previous resolution in 2004 or 2006 pertaining to MH parks, staff could not recall which resolution was being referenced. Mayor Truax recalled discussing allowing short-term stay recreational vehicle (RV) parks. In addition, City Attorney Crean advised the site was previously approved for a RV park; however, it was never constructed, noting Council's discussion should be pertinent to this new application.

In response to Valfre's inquiry pertaining to the allowable type of housing units, Pohl advised there are no housing types in the CC zoning district, noting Household Living is allowed; however, Household Living is a residential use category (Table 3-10) that provides a general description of the different housing types that are allowed, but not all housing types are allowed in every zoning district where Household Living is permitted, such as multi-family dwellings are not permitted in single-family zoning districts.

In response to Rippe's inquiry pertaining to the type of housing units that would achieve the minimum density of 16.22 units per net acre, Pohl indicated most likely it would be multi-family dwellings.

Written Testimony Received:

Linda Davis, Forest Grove, submitted written testimony, dated March 17, 2019, in support of the application.

Sarah Goss, Forest Grove, submitted written testimony, dated March 18, 2019, in support of the application.

No other written testimony was received.

Applicant/Appellant:

Garrett Stephenson, legal counsel, Schwabe Williamson & Wyatt, Portland; Heather Austin, 3J Consulting, Inc., Beaverton; Deborah Kleinman, Appellant/Property Owner of Rose Grove Mobile Home Park, California; and Amber Lewis, Park Manager, Forest Grove, presented background information and reported Rose Grove has been a key provider of affordable housing for over 30 years with 330 units. Stephenson and Kleinman explained the problem with the RV park model, as it relates to Rose Grove, is a legal statute that limits stays to 30 days, which is why Rose Grove is proposing an expansion that would allow for permanent housing. Kleinman highlighted Rose Grove living and amenities, noting they are asking the City to consider supporting 16 new homes that will cater to persons with a medium-family (annual) income of \$42,000 or less. Lewis provided background information pertaining to homeownership and racial

demographics, noting tenants must have an income of \$1,800 or more a month to qualify to rent a space in Rose Grove. Stephenson and Austin presented a PowerPoint presentation overview of their analyses, as detailed in their letter dated February 5, 2019, and recapped their “Response to Bases for Denial” as noted in their presentation:

- Definitions are land use regulations relevant to determining whether a use is permitted.
 - FGDC 10.1.120 – use definitions apply to permitted uses.
 - *Tylka v. Clackamas County*, 28 Or LUBA 417 (1994)
- An express example of a use allowed by the Code is binding.
 - ORS 174.010 – a local government cannot insert what a regulation has omitted nor omit what has been inserted.
 - “It is impermissible to read...an ordinance a requirement that ordinance simply does not contain. *Church v. Grant County*, 178 Or App 518 (2003).
 - ORS 197.307(4): [A] local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing.
 - (A) May include...one or more provisions regulating the density or height of development.
 - (B) May not have the effect, either in themselves or cumulatively, of discouraging the needed housing through unreasonable cost or delay.
- City Housing Needs Assessment:

Need for 1,400 additional housing units affordable to low and extremely low income households.

- Council's direction is to “support efforts and programs[...] to expand and retain affordable housing opportunities for Forest Grove Residents.
- Rose Grove is the single largest provider of affordable homes in Forest Grove.
- Most units are affordable to household incomes of \$42,000 or less.
- Staff's interpretation is not “clear and objective.”

In addition, Stephenson and Austin addressed various Council inquiries and concerns pertaining to the proposed expansion site plan; the Fire Department's concerns about access and circulation; sidewalk continuity and parking standards, noting if the expansion is approved, they will comply with the criteria to meet the City standards even if the standards do not apply to the CC zone. Stephenson also referenced Doherty Ford's letter dated January 21, 2019, which is expressing its support for the proposed expansion. In conclusion of the above-noted testimony, Stephenson pointed out that Rose Grove would have difficulty in selling the parcel of land for any other “use” due to the access restriction.

Proponents:

Brian Lewis, Forest Grove, testified in support of the application and questioned why residential dwellings were no longer applicable.

Danny Vega, Forest Grove, testified in support of the application.

Sarah Goss, Forest Grove, testified and submitted written testimony in support of the application.

No one else testified and no written comments were received.

Opponents:

No one testified and no written comments were received.

Others:

No one testified and no written comments were received.

Public Hearing Closed:

Mayor Truax closed the Public Hearing.

Questions of Staff:

Pohl responded to testimony pertaining to allowed uses in the Town Center Transition zone. Riordan responded to testimony pertaining to the City's Affordable Housing Needs Assessment and housing recommendations. Reitz responded to testimony pertaining to the Oregon Department of Transportation's (ODOT) review of the application, i.e., relocating the right-of-access, limiting the access to emergency vehicles only (provided the Fire Department concurs), and requiring permits for drainage and work in the ODOT right-of-way.

Rebuttal:

Stephenson rebutted that they did not apply for a code interpretation, they applied for a development site plan review. In addition, Stephenson responded to staff's comments regarding the City's housing needs and ODOT's review.

Council Discussion:

Uhing voiced concern that the code language was ambiguous, noting Council needs to readdress the low-income housing needs and types of household living.

Rippe voiced concern of relying on implied rather than explicit code standards. Rippe advised he does not have an issue with the land use but he does have an issue with the site plan, noting the site plan needs to be based on current code standards not prior code standards.

Mayor Truax commented on the need of affordable housing around the region, noting this is an opportunity to make life better for at least 16 families.

Hearing no further concerns from the Council, Mayor Truax asked for a motion from the Council.

MOTION: Council President Johnston moved, seconded by Councilor Valfre, to Reverse the Community Development Department's Decision and Approve Preliminary Site Plan Pending Review of Final Findings and Conditions of Approval on April 22, 2019, for a 16-Unit Manufactured Dwelling Park Expansion at 4015 Pacific Avenue; Washington County Tax Lot 1N332DD01400; File No. 311-18-000036-PLNG.

To complying with the applicant's request and the applicant's agreement to extend the 120-days deadline, the Council approved scheduling for consideration the Final Findings and Conditions of Approval for the Council Meeting on Monday, April 22, 2019. Stephenson also agreed to meet with staff to discuss revising the Finding and Conditions of Approval.

Wenzl noted the conditions of approval must address the Fire Department's concerns and require extending the sidewalks.

Rippe noted the conditions of approval needs to address safe routes to school.

Hearing no further concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Johnston, Rippe, Thompson, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: None. ABSENT: None. MOTION CARRIED 7-0.

8. PUBLIC HEARING AND RESOLUTION NO. 2019-11 ADOPTING SMALL CELL WIRELESS FACILITIES DESIGN AND CONSTRUCTION STANDARDS

Staff Report:

Hormann and Downey presented the above-proposed resolution for Council consideration, noting the above-proposed resolution is addressing the design and construction standards for small cell wireless facilities (SWF) located in City right-of-way (ROW), pursuant to the Federal Communications Commission (FCC) adopted Order 18-133. Downey advised the FCC Order allows the City to adopt design and construction standards prior to April 15, 2019. Hormann and Downey presented a PowerPoint presentation overview, noting staff met with Council in work sessions to discuss the proposed design and construction standards and the proposed fees (Agenda Item 9). Downey referenced the written testimony, noting staff has been working with the City Attorney to ensure the City's SWF Design and Construction Standards are within the FCC guidelines. In conclusion of the above-noted staff report, Hormann and Downey advised staff is recommending Council approve the SWF Design and Construction Standards as proposed in Exhibit A, noting staff will continue working with the City Attorney and the carriers to ensure the City remains in

compliance with the FCC guidelines.

Before proceeding with the Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2019-11.

VanderZanden read Resolution No. 2019-11 by title.

MOTION: Council President Johnston moved, seconded by Councilor Thompson, to adopt Resolution No. 2019-11 Adopting Small Cell Wireless Facilities Design and Construction Standards.

Public Hearing Opened:

Mayor Truax opened the Public Hearing and read the hearing procedures.

Written Testimony Received:

WPG Wireless Policy Group on behalf of Verizon Wireless, Seattle Washington, submitted written testimony, dated March 15, 2019, with suggested revisions.

DavisWright Termaine on behalf of T-Mobile West, Portland, submitted written testimony, dated March 18, 2019, stating they are concerned that the proposed rules fall short of the compliance with federal law.

Proponents:

No one testified and no written comments were received.

Opponents:

Steve Coon, Verizon Wireless, Hillsboro, testified that while Verizon generally supports the changes being proposed, there are a few targeted concerns in the definitions section (change term of monopole to purpose built pole) and aligning dimensional standards to allow for a combined 4G/5G installation.

No one else testified and no written comments were received.

Others:

No one testified and no written comments were received.

Public Hearing Closed:

Mayor Truax closed the Public Hearing.

Council Discussion:

Hormann and Downey responded to various Council concerns pertaining to the SWF installation requirements, the carrier's responsibilities, hosting infrastructure, radiation exposure and overall aesthetics, pole congestion and wildlife interference.

Hearing no additional concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Johnston, Rippe, Thompson, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

9. **PUBLIC HEARING AND RESOLUTION NO. 2019-12 ESTABLISHING FEES APPLICABLE TO SMALL CELL WIRELESS FACILITIES LOCATED WITHIN THE CITY OF FOREST GROVE RIGHT-OF-WAY**

Staff Report:

Hormann and Downey presented the above-proposed resolution for Council consideration, noting the above-proposed resolution is establishing fees applicable to small cell wireless facilities (SWF) located in City right-of-way (ROW), pursuant to the Federal Communications Commission (FCC) adopted Order 18-133. Downey advised the FCC Order allows the City to establish reasonable fees of cost incurred by the City in processing applications and hosting SWF infrastructure. Hormann and Downey presented a PowerPoint presentation overview, noting staff met with Council in work session on February 25, 2019, to discuss the City's proposed fees. In conclusion of the above-noted staff report, Hormann and Downey advised staff is recommending Council approve the proposed resolution as outlined in Exhibit A. In addition, Downey advised the City's proposed fee types are similar to those that other cities in Washington County are establishing.

Before proceeding with the Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2019-12.

VanderZanden read Resolution No. 2019-12 by title.

MOTION: Council President Johnston moved, seconded by Councilor Thompson, to adopt Resolution No. 2019-12 Establishing Fees Applicable to Small Cell Wireless Facilities located within the City of Forest Grove Right-of-Way.

Public Hearing Opened:

Mayor Truax opened the Public Hearing and read the hearing procedures.

Written Testimony Received:

Under Agenda Item 8.

Proponents:

No one testified and no written comments were received.

Opponents:

No one else testified and no written comments were received.

Others:

No one testified and no written comments were received.

Public Hearing Closed:

Mayor Truax closed the Public Hearing.

Council Discussion:

Hormann and Downey responded to various Council concerns pertaining to the SWF installation application fees, hiring a consultant to meet applicable timelines, recurring hosting fees and pending litigation pertaining to the FCC Order.

Mayor Truax voiced concerns of the FCC Order enacting preemptions that limit local government's authority to regulate how SWF are deployed within its public rights-of-way.

Hearing no additional concerns from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Johnston, Rippe, Thompson, Uhing, Valfre, Wenzl, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.

10. RESOLUTION NO. 2019-13 ADOPTING CITY COUNCIL GOALS AND OBJECTIVES

The above-noted agenda item was TABLED to the next Council meeting of April 8, 2019.

11. RESOLUTION NO. 2019-14 ADOPTING CITY COUNCIL TEAM AGREEMENT AND REPEALING RESOLUTION NO. 2018-37

The above-noted agenda item was TABLED to the next Council meeting of April 8, 2019.

12. CITY COUNCIL COMMUNICATIONS:

The above-noted agenda item was TABLED to the next Council meeting of April 8, 2019.

13. City Manager's Report:

The City Manager's Report to Council was referenced in the packet.

14. MAYOR'S REPORT:

The above-noted agenda item was TABLED to the next Council meeting of April 8, 2019.

15. **ADJOURNMENT:**

Mayor Truax adjourned the regular Council meeting at 10:05 p.m.

Respectfully submitted,



Anna D. Ruggles, CMC, City Recorder

Urban Renewal Meeting scheduled at 9:20 pm was Tabled to April 8, 2019.